

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :
:
v. : **CRIMINAL DOCKET NO. 5:17-cr-00390**
:
EDWIN PAWLOWSKI : **HONORABLE JUAN R. SANCHEZ**

SUPPLEMENT TO MOTION FOR BAIL PENDING APPEAL

AND NOW, the Defendant, Edwin Pawlowski, by and through counsel, Jack McMahon, Esquire, hereby submits this Supplement to Motion for Bail Pending Appeal and avers the following:

1. Defendant Edwin Pawlowski on August 30, 2018 filed a motion for bail pending appeal.
2. The Government in the sentencing memorandum filed August 27, 2018 requests that the Defendant be immediately remanded with no bail after sentencing.
3. The Government bases this request on the concept in 18 U.S.C. §3143 that if the Defendant is likely to flee that remand and no bail pending appeal is justified.
4. The only thing the Government point to is the possibility of a lengthy jail sentence.

There is nothing in the §3143 that indicates that the possible length of sentence is one of the relevant factors. Congress certainly could have placed such a factor in the statute but clearly did not. Under the Government's theory a defendant facing any lengthy incarceration would not be entitled to bail and require immediate remand. That is simply not the law.

5. As stated in bail pending appeal motion, Mr. Pawlowski is clearly not a candidate to flee the jurisdiction. Mr. Pawlowski has a home, a wife and two children in Allentown. Mr. Pawlowski has abided by all terms of pretrial release for over two years. Mr. Pawlowski is appearing for sentencing with full knowledge of guidelines and Government recommendation. Mr. Pawlowski is, and has been, a stable, long time member of the Lehigh Valley community. Mr. Pawlowski has presented to this Court over one hundred letters from the community vouching for this standing. Mr. Pawlowski has no place to flee to nor does he have the money and assets to do so even if he were so inclined. Mr. Pawlowski has no job, extremely small and limited assets and in reality is struggling to make ends meet.

6. Mr. Pawlowski, as stated in bail pending appeal motion, has a strong desire to attempt to rectify his situation through the appellate process. Mr. Pawlowski believes, as does counsel, that there is a significant legal and factual issues that may give him eventual relief. Fleeing would eliminate the possibility of his having appellate review of these very substantial legal matters. Not only would fleeing eliminate appellate review, it would subject Mr. Pawlowski to additional crimes and jail pursuant to 18 U.S.C. §3146. Fleeing would subject Mr. Pawlowski to a possible imprisonment of ten years on top of the sentence this Court gives. It is simply counterintuitive that someone who greatly wishes to have his conviction and jail time reviewed and possibly reversed would throw that hope away and expose himself to even further jail time.

7. The Government does not understand what the standard in §3143 is. The standard is not does the Defendant have a motive to flee (i.e., possible long incarceration) but rather is he likely to flee. Anyone facing something undesirable may wish to avoid that experience but that is a far cry from acting on that wish. The Government posits that if you have a motive to flee that it

is therefore likely the Defendant will act on that motive. This simply wrong and faulty reasoning. "Likely" means having a high probability of occurring. There is simply nothing in the Defendant's background, history in this case, his words, his action or his abilities and asset that makes flight a high possibility. The Government wants the standard to be motive to flee rather than likely to flee. The standard the Government pushes in simply not the law.

Respectfully submitted,

Date: August 31, 2018

/s/ Jack McMahon

Jack McMahon

CERTIFICATE OF SERVICE

The undersigned hereby certify that on this date a copy of the foregoing Supplement to Motion for Bail Pending Appeal was electronically served by the Court's electronic case filing system upon the following:

Anthony Wzorek, AUSA
Michelle Morgan, AUSA
Office of the United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106

Date: August 31, 2018

/s/ Jack McMahon

Jack McMahon